Commissioner of Central Excise Vs. J.K. Gori and Associates

Commissioner of Central Excise Vs. J.K. Gori and Associates

SooperKanoon Citation : sooperkanoon.com/37262

Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Dec-02-2004

Reported in : (2005)(182)ELT502Tri(Mum.)bai

Judge : K Kumar

Appellant : Commissioner of Central Excise

Respondent : J.K. Gori and Associates

Judgement :
1. Shri U. H. Jadhav, Id. JDR appeared on behalf of the Revenue. None for the appellant.

2. The only issue involved in the present case is charging of interest for late payment of Service Tax. It is seen that the Hon'ble High Court of Gujarat on a petition filed by the appellant has passed Order on the impugned application clarifying as under :- "Having heard the learned Counsel for the parties, we are of the opinion that since by way of interim relief granted on 11-3-1999 and 12-5-1999, this court had restrained the respondent from giving effect to the impugned provisions for levy of service tax. but had not imposed any condition regarding payment of interest and since we found the request made on behalf of the petitioners for some to pay up service tax as reasonable, we intended that the members, of the petitioner association may not be made to suffer any adverse consequence on account of delay in payment of service tax if the payment was made within two months i.e. 28-2-2001. As per the settled legal position, tile

principle of restitution would apply, if the court had not given any direction while dismissing the petitions, as stated above, it had intended to protect the members of the petitioner association against adverse consequences arising from delay in payment of service tax on account of pending petitions with interim relief in favour of petitioners. In our view, the provisions of Section 75 will have to be read in light of the aforesaid interim relief and the final direction and, therefore, it cannot be said that even if the concerned members of the petitioner association had paid up the service tax by 28-2-2001, they had not paid the tax to the Central Government within the period prescribed." 3. In view of the aforesaid directions of the High Court the Commissioner (Appeals) has clearly held that "since the Service Tax was paid by 28-2-2001 the question of charging any interest does not arise". I do not find any fault in the above Order of the Commissioner (Appeals). I, therefore, dismiss the appeal filed by the Revenue.